

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Eric R. Wilson, :
Petitioner : Case No. 2:12-cv-0368
v. : Judge Economus
Warden, Ross Correctional Institution : Magistrate Judge Abel
Respondent :
:

Report and Recommendation

Petitioner Eric R. Wilson, a prisoner at the Ross Correctional Institution, brings this action for writ of habeas corpus under 28 U.S.C. §2254. This matter is before the Magistrate Judge for preliminary consideration under Rule 4, Rules Governing Section 2254 Cases in United States District Courts.

The petition alleges Wilson was convicted of three counts of rape and two counts of kidnaping in the Court of Common Pleas for Cuyahoga County, Ohio. He was sentenced to a term of life in prison.

Cuyahoga County is within Ohio's northern federal judicial district. Because petitioner challenges the conviction of a state court within the Northern District of Ohio but is in custody in the Southern District of Ohio, both districts have concurrent jurisdiction over the action. 28 U.S.C. §2241(d).

This Court has the discretion to transfer this action to the Northern District for hearing and determination. *Id.* A transfer to the Northern District is appropriate in this

case because it is the more convenient forum and the evidence is more readily accessible in the district where petitioner was convicted. *See, Bell v. Watkins*, 692 F.2d 999, 1013 (5th Cir. 1982), *cert. denied*, 464 U.S. 843 (1983); *see also, Braden v. 30th Judicial Circuit Court of Ky.*, 410 U.S. 484, 497 n.13 (1973).

Accordingly, the Magistrate Judge RECOMMENDS that this action be TRANSFERRED to the United States District Court for the Northern District of Ohio at Cleveland.

Petitioner's motion for leave to proceed *in forma pauperis* is GRANTED. It is ORDERED that petitioner be allowed to prosecute his action without prepayment of fees or costs and that judicial officers who render services in this action shall do so as if the costs had been prepaid.

The Clerk of Court is DIRECTED to mail or email a copy of this Order to the Attorney General of Ohio, Corrections Litigation Section, 150 E. Gay St., 16th Floor, Columbus, OH 43215.

If any party objects to this Report and Recommendation, that party may, within fourteen (14) days, file and serve on all parties a motion for reconsideration by the Court, specifically designating this Report and Recommendation, and the part thereof in question, as well as the basis for objection thereto. 28 U.S.C. §636(b)(1)(B); Rule 72(b), Fed. R. Civ. P.

The parties are specifically advised that failure to object to the Report and Recommendation will result in a waiver of the right to *de novo* review by the District

Judge and waiver of the right to appeal the judgment of the District Court. *Thomas v. Arn*, 474 U.S. 140, 150-52 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). See also, *Small v. Secretary of Health and Human Services*, 892 F.2d 15, 16 (2d Cir. 1989).

s/Mark R. Abel
United States Magistrate Judge